

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2018
CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

Crl.O.P Nos.26757 of 2017
and
Crl.M.P.Nos.15403 & 15404 of 2017

P.Selvakumar

..Petitioner

Vs

1.K.R.Sandhya
2.Sainiyantha, Minor,
Rep by natural guardian Mother. ..Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C, praying to transfer case in the M.C.No.05 of 2017 pending trial before the learned Judicial Magistrate Court, Alandur, Chennai to the learned Subordinary Court, Poondamallee and the same.

For Petitioner : M/s.C.D.Johnson

For Respondents : Mr.V.Rajendran

O R D E R

The prayer sought for in the present petition is to transfer case in the M.C.No.05 of 2017 pending trial before the learned Judicial Magistrate Court, Alandur, Chennai to the learned Subordinary Court, Poondamallee.

2. The proceedings in H.M.O.P.No.412 of 2016 had been filed by the husband/petitioner herein, seeking for dissolution of marriage on the ground of cruelty. Pursuant to the divorce petition, the first respondent herein/ wife had filed a maintenance case for herself and her minor child before the Sub Court, Poonamallee. It is the submission of the learned counsel for the petitioner that in view of the common allegations made in both the proceedings, there cannot be contradictory findings in the both the Courts and hence seeks for transfer.

3. The learned counsel for the respondent, on the other hand, submitted that the affidavit has been filed in the present proceedings and hence such proceedings should not be permitted to be transferred.

4. I have given a careful consideration to the submissions made by the respective counsels. Both the parties are residents of Chennai. It is also seen that no serious prejudice would be caused by way of transferring the petition, since the distance involved is almost the same for both the parties. Furthermore, both the cases are based on same set of facts and by permitting both the Courts to give their independent opinion, it may become prejudicial to either one of the parties. As such it would be convenient for both the parties, if both the matters are tried by the same Court.

5. In the result, the proceedings in M.C.No.05 of 2017 on the file of the learned Judicial Magistrate, Alandur is directed to be transferred to the learned Sub Court, Poonamallee to be tried along with H.M.O.P.No.412 of 2016. Such an exercise shall be done within a period of 10 days.

6. At this juncture, the learned counsel for the respondent/wife submitted that as she an infant child and submits that the proceedings have been prolonged unnecessary.

7. In this back ground, it would be appropriate to direct the trial Court to complete the proceedings in a fixed a time limit. Consequently, there shall be a direction to the trial Court to complete the proceedings in M.C. and H.M.O.P within a period of three months from the date of transfer of the case.

8. The petitioner herein shall also pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the first respondent towards interim expenses, during the course of transfer of the proceedings.

9. The Criminal Original Petition is ordered accordingly. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

1.The learned Judicial Magistrate,
Alandur, Chennai.

2.The Subordinate Judge,
Poonmallee.

+1cc to Mr.Rajendran, Advocate, S.R.No.11091

+1cc to Mr.C.D.Johnson, Advocate, S.R.No.10846

Cr1.OP No.26757 of 2017

RR(CO)

RRK(09/03/2018)



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